

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION  
JURY**

**LYDIA GARZA,**

*Plaintiff*

**vs.**

**DEPARTMENT OF HOMELAND  
SECURITY, AND MICHAEL ROBLES,  
Individually,**

*Defendants*

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**CIVIL ACTION NO.** \_\_\_\_\_

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**PLAINTIFF'S ORIGINAL COMPLAINT**

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**I.  
INTRODUCTION**

1. This cause of action is filed under the Federal Tort Claims Act 28 U.S.C. Section 1346(b) against the DEPARTMENT OF HOMELAND SECURITY, for negligent acts or omissions by its division of Custom and Border Patrol (CBP), specifically, a CBP officer negligently operating his government vehicle while in the course and scope of his employment and crashing into Plaintiff's vehicle causing personal injuries and property damage.

**II.  
JURISDICTION AND VENUE**

2. This Court has exclusive subject matter jurisdiction under the Federal Tort Claims Act 28 U.S.C. §1346(b), as the principal Defendant is a federal governmental agency, the DEPARTMENT OF HOMELAND SECURITY, under a tort law cause of action.

3. Venue is proper in this Court as the cause of action made the basis of this lawsuit occurred in Starr County, Texas.

### **III. PARTIES**

4. Plaintiff, LYDIA GARZA, is a private individual residing in Mission, Hidalgo County, Texas.

5. Defendant, DEPARTMENT OF HOMELAND SECURITY conducting business in Texas as the U.S. Customs and Border Patrol (CBP), is an agency of the Federal government.

6. Defendant, MICHAEL ROBLES, is an employee of the U.S. Customs and Border Patrol and was in the course and scope of this employment at the time of the collision made the basis of this lawsuit.

### **IV. COMPLIANCE WITH NOTICE AND CONDITIONS PRECEDENT**

7. Plaintiff LYDIA GARZA has provided timely and adequate written notice and supporting documentation of claim and damages to the appropriate governmental agencies pursuant to the Federal Tort Claims Act 28 U.S.C. §1346(b).

### **V. STATEMENT OF FACTS**

8. On May 18, 2013, Plaintiff, LYDIA GARZA, was lawfully operating her vehicle, a 2007 Cadillac Escalade, on Highway 83 in Rio Grande City, Starr County, Texas, in a westbound direction.

9. Defendant driver, MICHAEL ROBLES, while operating his 2010 Chev. Tahoe in the course and scope of his employment for CBP, also traveled in a westbound direction behind the Plaintiff on Highway 83 when he violently crashed into the rear of Plaintiff LYDIA GARZA's vehicle.

10. Defendant, MICHAEL ROBLES' acts and/or omissions resulted in Plaintiff LYDIA GARZA sustaining serious and disabling physical injuries to her body and further, additional emotional and mental anguish damages in the past, present and future.

**VI.  
CAUSES OF ACTION**

**Negligence**

11. Defendant MICHAEL ROBLES had a duty to exercise the degree of care that a reasonable person of ordinary prudence would use to avoid harm to others under circumstances similar to those described herein.

12. The negligent, careless or reckless disregard of said duty by Defendant MICHAEL ROBLES directly and proximately caused Plaintiff LYDIA GARZA's injuries.

13. The negligent, careless or reckless disregard of duty of Defendant MICHAEL ROBLES consisted of, but not limited to, the following acts and omissions:

- a) Failure to keep a proper lookout while operating his vehicle;
- b) Failure to control his speed for the road and traffic conditions ahead;
- c) Failure to apply his brakes in a timely manner to avoid crashing into Plaintiff's vehicle;
- d) Failure to maintain a safe distance of his vehicle from Plaintiff's vehicle to avoid crashing into Plaintiff's vehicle.

14. Defendant DEPARTMENT OF HOMELAND SECURITY, specifically, U.S. Customs and Border Patrol, negligently trained, supervised and entrusted its vehicle to be operated by Defendant MICHAEL ROBLES who operated said vehicle at the specific date and time of the collision with Plaintiff while in the course and scope of employment with Defendant DEPARTMENT OF HOMELAND SECURITY.

**VII.**  
**PLAINTIFF LYDIA GARZA'S DAMAGES**

15. As a direct and proximate result of the collision made the basis of this lawsuit, the negligent acts and/or omissions of Defendants DEPARTMENT OF HOMELAND SECURITY and its employee, MICHAEL ROBLES caused Plaintiff LYDIA GARZA to sustain and suffer injuries and incur damages as set out herein.

16. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff LYDIA GARZA incurred the following damages:

- a) Reasonable and necessary medical care and medical expenses incurred in the past;
- b) Reasonable and necessary medical care and expenses that may be incurred in the future;
- c) Physical pain and suffering in the past;
- d) Physical pain and suffering in the future;
- e) Physical impairment in the past;
- f) Physical impairment which, in all probability, will be sustained in the future;
- g) Loss of earnings in the past;
- h) Loss of wage earning capacity in the future;
- i) Mental anguish and emotional distress in the past;
- j) Mental anguish and emotional distress in the future;
- k) Diminished quality of life in the past;
- l) Diminished quality of life in the future;
- m) Attorney Fees incurred to prosecute Plaintiff's cause of action.

**VIII.  
REQUEST FOR JURY TRIAL**

Plaintiff LYDIA GARZA respectfully requests a Trial by Jury.

**IX.  
PRAYER FOR RELIEF**

17. WHEREFORE, PREMISES CONSIDERED, Plaintiff, LYDIA GARZA respectfully prays that Defendants DEPARTMENT OF HOMELAND SECURITY and MICHAEL ROBLES be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for Plaintiff LYDIA GARZA against the named Defendants for damages in an amount within the jurisdictional limits of the Court; including pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; attorney fees and such other and further relief to which Plaintiff LYDIA GARZA may be entitled at law or in equity.

Respectfully submitted,

/s/ David Willis  
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